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8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **GEORGE NEWMAN,**

12 Holder of License No. 12483
As a Pharmacist
13 In the State of Arizona

Board Case No. 08-0033-PHR

**CONSENT AGREEMENT
FOR CIVIL PENALTY**

14
15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and the responsibilities of the Arizona State Board
18 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, George Newman
19 ("Respondent"), holder of Pharmacist License Number 12483 in the State of Arizona, and
20 the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and
21 Order ("Consent Agreement") as a final disposition of this matter.

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
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1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning the above-captioned matter, at which hearing he could present
3 evidence and cross examine witnesses. By entering into this Consent Agreement,
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3474 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. All admissions made by the Respondent in this Consent Agreement are
24 made solely for the final disposition of this matter, and any related administrative
25 proceedings or civil litigation involving the Board and Respondent. Therefore, any
26

1 admissions made by Respondent in this Consent Agreement are not intended for any
2 other use, such as in the context of another regulatory agency's proceedings, or civil or
3 criminal proceedings, whether in the State of Arizona or in any other state or federal
4 court.

5 9. Respondent acknowledges and agrees that, upon signing this Consent
6 Agreement and returning this document to the Board's Executive Director, he may not
7 revoke his acceptance of the Consent Agreement or make any modifications to the
8 document regardless of whether the Consent Agreement has been signed by the
9 Executive Director. Any modification to this original document is ineffective and void
10 unless mutually agreed by the parties in writing.

11 10. Respondent understands that the Consent Agreement shall not become
12 effective unless and until adopted by the Board and signed by its Executive Director.

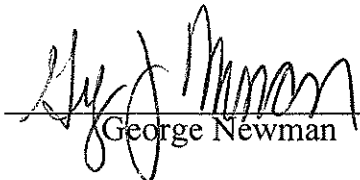
13 11. If a court of competent jurisdiction rules that any part of this Consent
14 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
15 shall remain in full force and effect.

16 12. Respondent understands and agrees that if the Board does not adopt this
17 Consent Agreement, he will not assert as a defense that the Board's consideration of this
18 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

19 13. Respondent understands that this Consent Agreement is a public record that
20 may be publicly disseminated as a formal action of the Board and may be reported as
21 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
22 Protection Data Bank.

23 14. Respondent understands that any violation of this Consent Agreement
24 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
25 1901.01(B)(20), -1927(A)(1).

1 ACCEPTED AND AGREED BY RESPONDENT

2
3 
4 George Newman

Dated: 2/26/2008

5 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
6 this 26th day of February, 2008, by George Newman.

7 
8 NOTARY PUBLIC



My Commission expires: March 30, 2011

10 **FINDINGS OF FACT**

11 1. The Board is the duly constituted authority for licensing and regulating the
12 practice of pharmacy in the State of Arizona.

13 2. Respondent is the holder of license number 12483 to practice as a
14 pharmacist in the State of Arizona.

15 3. During all relevant times to these findings, Respondent worked as a
16 pharmacist at CVS Pharmacy #5950 (the "Pharmacy") in Tempe, Arizona.

17 4. In October 2007, a mother brought in a prescription for methylphenidate for
18 her child. The prescription was mistakenly filled with methadone.

19 5. Respondent verified and released the prescription.

20 6. The child took eleven days worth of the prescription before the error was
21 caught. Due to the improper medication, the child began hallucinating and was taken the
22 emergency room.
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1 7. The error was caught by the PIC during a monthly inventory after the PIC
2 noted an excess of methylphenidate 10 mg and a deficit of methadone 10 mg.

3 **CONCLUSIONS OF LAW**

4 1. The Board possesses jurisdiction over the subject matter and over
5 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

6 2. The Board may discipline a pharmacist who has engaged in unprofessional
7 conduct. A.R.S. § 32-1927(A)(1).

8 3. The conduct and circumstances described above constitutes unprofessional
9 conduct pursuant to A.R.S. § 32-1901.01(B)(2) (Violating any federal or state law, rule or
10 regulation relating to the manufacture or distribution of drugs and devices or the practice
11 of pharmacy).

12 4. The conduct and circumstances described above constitute unprofessional
13 conduct pursuant to A.R.S. § 32-1901.01(B)(10) (Violating a federal or state law or
14 administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous
15 drugs, controlled substances or precursor chemicals when determined by the board or by
16 conviction in a federal or state court).

17 5. The conduct described above violated Arizona Administrative Code R4-23-
18 402(A)(11) (A pharmacist shall make a final accuracy check on the completed
19 prescription medication).

20 **ORDER**

21 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY
22 ORDERED THAT:

1 (1) Respondent shall pay a civil penalty of \$1,000.00 within ninety (90) days of
2 the effective date of this Order. Failure to pay the civil penalty within the specified
3 period constitutes noncompliance with this Consent Agreement.

4 (2) Beginning on the effective date of this consent agreement, Respondent's
5 Pharmacist License No. 12483 is placed on probation for a period of six (6) months.
6 During the term of probation, Respondent shall successfully complete and provide proof
7 of successful completion to the Board of ten (10) contact hours (1.0 C.E.U.) of American
8 Council on Pharmaceutical Education (ACPE). The courses shall be pre-approved by
9 Board staff, shall be limited to topics dealing with prescription error prevention and/or
10 counseling, and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C.
11 R4-23-204.

12 (3) In the event Respondent fails to fulfill the requirements of paragraph 2
13 within the probationary period the Board, at its sole discretion, may either: (a) extend
14 Respondent's probation for a period determined by the Board; or (b) institute proceedings
15 for noncompliance with this Consent Agreement, which may result in suspension,
16 revocation, or other disciplinary action.

17
18 DATED this 20th day of MARCH, 2008.

19
20 ARIZONA STATE BOARD OF PHARMACY

21 (Seal)

22
23 By:



24 HAL WAND, R.Ph.
25 Executive Director
26

1 ORIGINAL OF THE FORGOING FILED
this 20 day of March, 2008, with:

2
3 Arizona State Board of Pharmacy
1700 West Washington, Suite 250
Phoenix, Arizona 85007

4 EXECUTED COPY OF THE FOREGOING MAILED
5 BY CERTIFIED MAIL
this 20 day of March, 2008, to:

6 George Newman
7 4215 N. Drinkwater Blvd.
Scottsdale, Arizona 85251
8 Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED
this 20 day of March, 2008, to:

10 Roger N. Morris
11 Quarles & Brady, LLP
One Renaissance Square, Two N. Central Ave.
12 Phoenix, Arizona 85004-2391
Attorney for Respondent

13 Elizabeth A. Campbell
14 Assistant Attorney General
1275 W. Washington Street, CIV/LES
15 Phoenix, Arizona 85007
Attorneys for the State of Arizona

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17 #146269